

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:)	
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Valerie DE LA POTERIE et al.)	Group Art Unit: 1619
)	
Application No.: 10/654,907)	Examiner: Jyothsna A. VENKAT
)	
Filing Date: September 5, 2003)	Confirmation No.: 6821
)	
For: COSMETIC COMPOSITION)	
COMPRISING A TACKY WAX)	

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

INFORMATION DISCLOSURE STATEMENT UNDER 37 C.F.R. § 1.97(b)

Pursuant to 37 C.F.R. §§ 1.56 and 1.97(b), Applicants bring to the attention of the Examiner the documents listed on the attached PTO SB/08 Form. This Information Disclosure Statement is being filed concurrently with a Request for Continued Examination in the above-referenced application.

Copies of the U.S. patents, U.S. patent application publications, co-pending applications and the respective Office Actions from co-pending U.S. applications are not enclosed as they are available in the Image File Wrapper system on PAIR. See M.P.E.P. § 609.04.

Copies of the listed foreign and non-patent literature documents are attached.

The United States Court of Appeals for the Federal Circuit held in *Dayco Products, Inc. v. Total Containment, Inc.*, 329 F.3d 1358, 66 U.S.P.Q.2d 1801 (Fed. Cir. 2003), that an "adverse decision" by another examiner may meet the materiality

standard under the amended Rule 56, and thus, Applicants should disclose prior rejections of "substantially similar claim[s]" to the Office. *See also* M.P.E.P.

§ 2001.06(b). Accordingly, although Applicants are not representing that the Office Actions in the co-pending applications are material to the present application and are not admitting that any of the other claims are substantially similar, out of an abundance of caution, Applicants have listed the substantive Office Actions in co-pending applications on the attached form.

Applicants respectfully request that the Examiner consider the listed documents and indicate that they were considered by making appropriate notations on the attached form.

With respect to the non-English language documents, Applicants make the following statements:

1. **DE 1 98 17 522** - This document is believed to be related to U.S. Patent Application Publication No. 2002/0131941, cited on the attached Form PTO/SB/08.
2. **EP 0 360 708** - This document is believed to be related to U.S. Patent No. 5,159,052, cited on the attached Form PTO/SB/08.
3. **EP 0 549 494** - This document is believed to be related to U.S. Patent Nos. 5,756,635 and 6,258,916, cited on the attached Form PTO/SB/08.
4. **EP 0 951 897** - This document is believed to be related to U.S. Patent No. 6,180,123, cited on the attached Form PTO/SB/08.
5. **EP 0 955 039** - This document is believed to be related to U.S. Patent No. 6,491,927, cited on the attached Form PTO/SB/08.

6. **EP 1 068 854** - This document is believed to be related to U.S. Patent No. 6,372,235, cited on the attached Form PTO/SB/08.
7. **EP 1 086 945** - This document is believed to be related to U.S. Patent No. 7,288,262, cited on the attached Form PTO/SB/08.
8. **EP 1 157 683** - This document is believed to be related to U.S. Patent Application Publication No. 2002/0031533, cited on the attached Form PTO/SB/08.
9. **EP 1 172 078** - An abstract of this document can be found in the English language abstract submitted herewith, and cited on the attached Form PTO/SB/08.
10. **EP 1 191 041** - This document is believed to be related to U.S. Patent Application Publication No. 2002/013194, cited on the attached Form PTO/SB/08.
11. **EP 1 201 221** - This document is believed to be related to U.S. Patent Application Publication No. 2002/098217, cited on the attached Form PTO/SB/08.
12. **EP 1 396 257** - This document is believed to be related to U.S. Patent Application Publication No. 2005/188474, cited on the attached Form PTO/SB/08.
13. **EP 1 396 258** - This document is believed to be related to U.S. Patent Application Publication No. 2005/191262, cited on the attached Form PTO/SB/08.
14. **EP 1 396 259** - This document is believed to be related to U.S. Patent Application Publication No. 2005/172421, cited on the attached Form PTO/SB/08.

15. **EP 1 400 234** - This document is believed to be related to U.S. Patent Application Publication No. 2004/0142831, cited on the attached Form PTO/SB/08.
16. **EP 1 424 058** - This document is believed to be related to U.S. Patent Application Publication Nos. 2004/0137020 and 2004/0137021, cited on the attached Form PTO/SB/08.
17. **FR 2 079 785** - An abstract of this document can be found in the English language abstract submitted herewith, and cited on the attached Form PTO/SB/08.
18. **FR 2 792 190** - An abstract of this document can be found in the English language abstract submitted herewith, and cited on the attached Form PTO/SB/08.
19. **FR 2 844 185** - This document is believed to be related to U.S. Patent Application Publication No. 2005/191258, cited on the attached Form PTO/SB/08.
20. **FR 2 844 710** - An abstract of this document can be found in the English language abstract submitted herewith, and cited on the attached Form PTO/SB/08.
21. **FR 2 844 999** - An abstract of this document can be found in the English language abstract submitted herewith, and cited on the attached Form PTO/SB/08.
22. **JP 2000-136110** - This document is believed to be related to U.S. Patent No. 6,103,221, cited on the attached Form PTO/SB/08.
23. **JP 2001-48750** - This document is believed to be related to U.S. Patent No. 6,491,931, cited on the attached Form PTO/SB/08.

24. **JP 2002-145739** - This document is believed to be related to U.S. Patent Application Publication No. 2002/0098217, cited on the attached Form PTO/SB/08.

25. **WO 01/03653** - This document is believed to be related to U.S. Patent No. 6,491,931, cited on the attached Form PTO/SB/08.

26. **Okuyama, M., "Recent Research and Development of Mascara and Eyeliner," Fragrance Journal, 1997, Vol. 25, No. 8, pp. 58-64** - An abstract of this document can be found in the English language abstract on page 58 of the document, and cited on the attached Form PTO/SB/08. This document is cited as Citation 3 in the Notice of Reasons for Rejection mailed May 29, 2007 ("the Notice"), in Japanese Patent Application No. 2005-33677, which is believed to be related to co-pending U.S. Patent Application No. 11/056,239. An English translation of the Notice is submitted herewith, and cited on the attached Form PTO/SB/08.

27. **Pigeon, R. et al., "Chimie Macromoléculaire Appliquée," Vol. 40/41, No. 600, pp. 139-158 (1974)** - A summary of this document can be found in the English language summary on page 139 of the document, and cited on the attached Form PTO/SB/08.

28. **European Search Report for EP 05 29 0253** - This is the European Search Report for the European counterpart to U.S. Patent Application No. 11/056,239 (Attorney Docket No. 05725.1425).

29. **Terech, P., "Low-Molecular Weight Organogelators," Specialist Surfactants, Chapter 8, 1997, pp 209-263** - This document was submitted in co-

pending U.S. Patent Application No. 10/656,201 and thus is available in the Image File Wrapper system on PAIR. Nonetheless, Applicants are attempting to obtain a copy of this document to submit in the instant application.

This submission does not represent that a search has been made or that no better art exists and does not constitute an admission that each or all of the listed documents are material or constitute "prior art." If the Examiner applies any of the documents as prior art against any claim in the application and Applicants determine that the cited documents do not constitute "prior art" under United States law, Applicants reserve the right to present to the U.S. Patent and Trademark Office the relevant facts and law regarding the appropriate status of such documents.

Applicants further reserve the right to take appropriate action to establish the patentability of the disclosed invention over the listed documents, should one or more of the documents be applied against the claims of the present application.

If there is any fee due in connection with the filing of this Statement, please charge the fee to Deposit Account No. 06-0916.

Respectfully submitted,

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Dated: August 6, 2010

By: 

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